IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1736 OF 2006

Hansaben Gabhrubhai Patel .....Petitioners.

vs.

Rambali Chanika Singh

and Anr. .....Respondents.

M.K.Upadhyay for the petitioners.

CORAM: S.C.DHARMADHIKARI, J.

DATED: 9th March, 2007.

P.C.

1. The Petitioners before me are the Original Defendants in Short Civil Suit No. 6216 of 1983. They are aggrieved by an order dated 23.1.2006 passed in Chamber Summons No. 1425 of 2005 moved by the Respondent Original Plaintiff for amendment to the plaint.

2. The Learned Judge has observed that

the Plaintiff has prayed for amendment and such amendment is only to correct a typographical error in the plaint with regard to the date of the suit Agreement. The Learned Judge has observed that the issue of limitation is not concluded, merely, because the amendment is granted. The amendment is not causing any prejudice to the parties. Therefore, even though the same was belated, the Learned Judge has granted it by imposing cost on the Respondent Plaintiff.

3. In such circumstances, I do not see any prejudice being caused to the Petitioners. They are always at liberty to file an additional Written Statement upon the amendments being carried out. Further, the prayer in the Chamber Summons and the order of the Learned Judge does not mean that anything more than the plaint can be corrected in this case. The Plaintiff has carried out amendment to the plaint and even if his prayer mentions evidence and other papers and proceedings, the same are records of the court. There is no question of the parties being

permitted to amend them. In such circumstances, the amendment is only to the pleadings, namely, the plaint in this case which has been permitted. No case is made out to interfere in the discretionary order of the court below. Petition is summarily dismissed.

(S.C.Dharmadhikari, J)